

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed October 2, 2006. At the time of the Office Action, Claims 1-42 were pending in this Application. Claims 1-4, 9, 11-20, 34 and 36-42 were rejected. Claims 5-8, 10 and 35 stand objected to as being dependent upon a rejected base claim.

Applicants withdraw Claims 21-33 due to an election/restriction requirement and cancel Claim 3 without prejudice or disclaimer. Applicants provide remarks regarding Claims 1, 17 and 34 to further distinguish various features of Applicants' invention in comparison to the cited prior art. Applicants respectfully request reconsideration and favorable action in this case.

Allowable Subject Matter

Claims 5-8, 10 and 35 were objected to as being dependent upon a rejected base claim. Applicants have amended Claims 5, 6, 10 and 35 to no longer depend upon a rejected base claim and submit that these Claims are now in allowable form. Claims 5 and 35 were amended to include all of the limitations of base Claims 1 and 34, respectively. Claims 6 and 10 were amended to include some of the limitations of their base claims. Claims 7 and 8 are dependent on Claim 6. For these reasons, Applicants respectfully submit Claims 5-8, 10 and 35 are allowable in their current form.

Rejections under 35 U.S.C. § 112

Claim 3 was rejected by the Examiner under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement and further under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants cancel Claim 3 without prejudice or disclaimer.

Rejections under 35 U.S.C. § 102

Claims 1-4, 9, 12-20, 34 and 37-42 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated U.S. Patent 2,538,529 issued to Thomas R. Komline ("Komline"), which discloses a centrifuge (10) with controlled discharge of dense materials.

Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “the identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicant respectfully submits that the art cited as anticipatory by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

While both the Claimed invention and Komline teach simultaneous valving control of multiple hoppers, this is only a functional similarity. The Claimed invention teaches an improved method and apparatus which provides simultaneous valving for a plurality of such openings and eliminates many of the parts and elements required to practice the teachings of Komline. For instance, Komline teaches multiple rotating valves (37), each operating on a separate and independent axis of rotation. Each of the valve bodies (37) must be driven by an independent linkage including many parts (e.g., 31, 34, 35, 39, 40, and 44). Those linkages must be connected by yet another mechanical device:

The valve members 36 are connected for simultaneous rotary or oscillatory actuation by means of interposed shaft or rod elements 39, each at least partially of non-circular cross-section (Fig. 4) for a purpose to be described. In the embodiment illustrated in Fig. 1 a torsion spring 40 surrounds each rod member 39. One end of the spring is secured as at 41 to the valve member 36, the opposite end of said spring being secured as at 42 to the adjacent drum casing or discharge flange 38.

Komline, col. 6, lines 47-57, and:

Each circumferentially disposed rotary valve member 36 of a drum section is provided at its outer end with a gear or pinion 44 having meshing engagement with its corresponding shaft pinion 35 for rotative control of the valves under desired operating conditions to be described.

Komline, col. 6, line 72- col. 7, line 2.

These interconnected moving parts used to control valving are mounted on the peripheral surface of the centrifuge bowl and rotate with the bowl. The weight of the parts

require additional energy for rotation as well as increasing aerodynamic drag. In addition, the parts are subjected to centrifugal stress as they rotate.

The current invention as claimed, on the other hand, teaches a single valve ring as the valve element. This single member valve ring intrinsically synchronizes the opening and closing of multiple orifices when the ring rotates relative to the centrifuge bowl.

Claims 1 and 17 recite:

a valve ring forming a part of the fluid separation wall, the valve ring including at least one valve orifice formed in the valve ring;

Claim 34 recites:

a valve ring having at least one orifice and formed over the opening, the valve ring operable to slide along the outer surface of the wall such that the at least one orifice aligns with the opening.

Komline fails to disclose “a valve ring,” and, more specifically, “a valve ring forming a part of the fluid separation wall,” and, therefore, cannot anticipate each element of Claims 1, 17 and 34.

Given that Claims 2, 4, 9, and 12-16 depend from Claim 1 and Claims 18-20 and 34 depend from Claim 17 and Claims 38-42 depend from Claim 37, Applicants respectfully submit that Claims 2, 4, 9, 12-16, 18-20, 34 and 38-42 are allowable. As such, Applicants respectfully request that the Examiner withdraw the rejections and allow Claims 1-4, 9, 12-20, 34 and 37-42.

Rejections under 35 U.S.C. §103

Claims 11 and 36 were rejected under 35 U.S.C. §103(a) as being unpatentable over Komline as discussed above but fails to disclose a pressure sensor connected to the separation wall. Applicants respectfully traverse and submit the cited art, does not render the claimed embodiment of the invention obvious. In either case, Claims 11 and 36 depend from Claim 1 and Claim 34, respectively. As Applicants have argued above, Claims 1 and 34 are now in condition to be allowed, so Claims 11 and 36 depend from allowable claims and are, therefore, allowable in their current condition.

Information Disclosure Statement

Applicants would like to bring to the Examiner's attention that the Examiner made no indication that Reference "T" submitted with Information Disclosure Statement and PTO Form 1449 filed on February 28, 2005 and Reference "R" submitted with Information Disclosure Statement and PTO Form 1449 filed on November 18, 2005 had been considered in the Office Action mailed October 2, 2006. Applicants respectfully request confirmation of the consideration of References "T" and "R". Applicants attach a copy of the PTO Form 1449 that was attached to the Office Action mailed October 2, 2006 and respectfully request that the Examiner place his initials next to References "T" and "R" if citation is to be considered or draw a line through the citation if the citation is not to be considered.

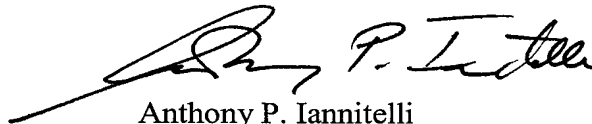
CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the pending claims. Claims 5, 6-8, 10 and 35 were objected to as being dependent upon a rejected base claim and have been amended to no longer so depend. Applicants respectfully submit these Claims, along with those distinguished from the cited references above are in allowable form and request notice to that effect.

Applicants authorize the Commissioner to charge \$225.00 for the two-month Request for Extension to Deposit Account No. 50-2148 of Baker Botts L.L.P. Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2642.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants



Anthony P. Iannitelli
Reg. No. 55,291

Date: 16 APRIL 2007

SEND CORRESPONDENCE TO:

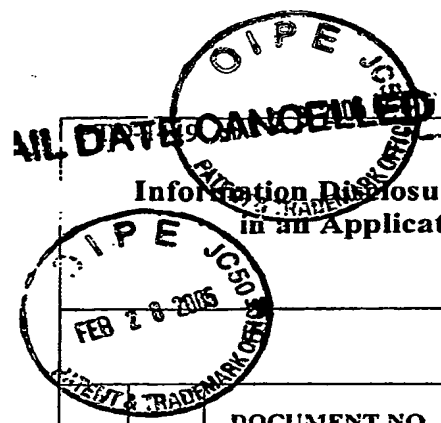
BAKER BOTTS L.L.P.

CUSTOMER NO. **31625**

512.322.2642

512.322.8383 (fax)

Enclosures: 1) PTO Form 1449 from Office Action mailed October 2, 2006



4

Information Disclosure Citation in an Application	Application No.	Applicant(s)	
	10/798,124	Kirker et al.	
	Docket Number	Group Art Unit	Filing Date
	066639.0123	1723	March 11, 2004

U.S. PATENT DOCUMENTS

		DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
DR	A.	2664905	1/54	Harstick	494	4	
DR	B.	3622003	11/71	Czech et al.	210	108	
DR	C.	4253962	3/81	Thompson	210	414	
DR	D.	4707259	11/87	Doucet	210	351	
DR	E.	4762615	8/88	Drori	210	333.01	
DR	F.	4793932	12/88	Ford et al.	210	636	
DR	G.	4876006	10/89	Ohkubo et al.	210	321.69	
DR	H.	4995977	2/91	Hilgendorff et al.	210	321.69	
DR	I.	5441651	8/95	Yamaguchi et al.	210	780	
DR	J.	5500122	03/96	Schwartz	210	321.75	
DR	K.	5922201	7/13/99	Yamamori	210	321.79	6/2/98
DR	L.	6161435	12/19/00	Bond et al.	73	587	7/21/99
DR	M.	20040016699	1/29/04	Bayevsky	210	636	7/29/02
DR	N.	6706180	3/04	Kirker et al.	210	232	
	O.						
	P.						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
DR	Q.	2307587	12/20/90	JP	C02F	1/44		X
	R.							
	S.							

NON-PATENT DOCUMENTS

		DOCUMENT (Including Author, Title, Source, and Pertinent Pages)	DATE
	T.	PCT International Search Report PCT/US04/32817, 13 pages	Mailing Date 1/19/05
	U.		
	V.		

EXAMINER	/David Reifsnnyder/	DATE CONSIDERED	09/22/2006
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EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.

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PTO-1449 Information Disclosure Citation in an Application	Application No. 10/798,124	Applicant(s) Curtis Kirker et al.	
	Docket Number 066639.0123	Group Art Unit 1723	Filing Date March 11, 2004

U.S. PATENT DOCUMENTS

		DOCUMENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE
DR	A.	5108604	04/28/92	Robbins	210	321.74	08/23/91
DR	B.	5143613	09/01/92	Bitter et al.	210	321.8	06/27/91
DR	C.	5182019	01/26/93	Cote et al.	210	321.8	03/03/92
DR	D.	5225080	07/06/93	Karbachsch et al.	210	321.75	09/06/91
DR	E.	5366625	11/22/94	Pederson et al.	210	321.78	12/18/92
DR	F.	5824217	10/20/98	Perl et al.	210	321.75	03/27/96
	G.						
	H.						
	I.						
	J.						
	K.						
	L.						
	M.						
	N.						

FOREIGN PATENT DOCUMENTS

		DOCUMENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
							YES	NO
	O.							
	P.							
	Q.							

NON-PATENT DOCUMENTS

		DOCUMENT (Including Author, Title, Source, and Pertinent Pages)	DATE
	R.	PCT International Search Report and Written Opinion, PCT/US04/24661, 9 pages.	Mailing Date 12/09/04
	S.		
	T.		
	U.		

EXAMINER /David Reifsnyder/	DATE CONSIDERED 09/22/2006
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EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.

T.R.



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31625 e 03/01/2007

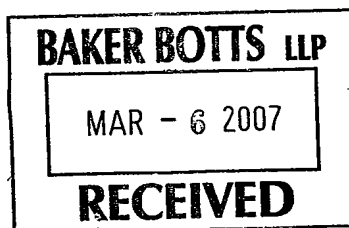
BAKER BOTTS L.L.P.
PATENT DEPARTMENT
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AUSTIN, TX 78701-4039

Paper No.

Application No.:	10/798,124 	Date Mailed:	03/01/2007
First Named Inventor:	Kirker, Curtis,	Examiner:	REIFSNYDER, DAVID A
Attorney Docket No.:	066639.0123	Art Unit:	1723
Confirmation No.:	6091	Filing Date:	03/11/2004

Please find attached an Office communication concerning this application or proceeding.

Docketed 03/01/07 Attorney AG
Docket No. 066639.0123
Due Date: 04/01/07 - 07/01/07
Action: Non-Compliant Amendment



Commissioner for Patents

**Notice of Non-Compliant Amendment
(37 CFR 1.121)**

Application No.
10/798,124

Applicant(s)
KIRKER ET AL.

Art Unit
2800

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

The amendment document filed on 23 February, 2007 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☐ E. Other: _____.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4): For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance, or a drawing submission (only) If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1 to 4 are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a Quayle action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable Jacquelyn L. Williams

Telephone No: 571-272-1640